

AMENDED IN ASSEMBLY MAY 7, 2003

AMENDED IN ASSEMBLY APRIL 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1156**

**Introduced by Assembly Member Nunez**

February 21, 2003

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An act to amend Sections 3501, 3507, and 3509 of the Government Code, relating to employer-employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1156, as amended, Nunez. Meyers-Milias-Brown Act: local public agencies.

The Meyers-Milias-Brown Act authorizes a local public agency to adopt reasonable rules and regulations after consultation in good faith with representatives of an employer-employee organization or organizations for the administration of employer-employee relations under the act.

This bill would revise the definition of “employee organization” for the purposes of the act to include any organization that seeks to ~~represents~~ *represent* employees of a public agency in their relations with that public agency. The bill would authorize a public agency to adopt reasonable rules and regulations after consultation in good faith with representatives of a recognized employer-employee organization or organizations. The bill would specify that employees of a local public agency and employee organizations may challenge a rule or regulation of a public agency as a violation of the act.

The ~~Meyers-Milias-Brown~~ *Meyers-Milias-Brown* Act delegates jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the statutory duties and rights of local public agency employers and ~~employee~~ *employees*, including processing unfair labor charges. The act prohibits the board from finding it an unfair labor practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is in violation of the act.

This bill would specify that the powers of the board include the power to order elections, to conduct any election it orders, and to adopt rules to apply in areas where a public agency has no rule. The bill would require that a complaint alleging any violation of any rules and regulations adopted by a public agency regarding the designation of management and confidential employees of a public agency and restricting those employees from representing any employee organization that represents other employees of the public agency be processed as an unfair practice charge ~~and that a complaint raised in the context of a board investigation into unit determination, representation, recognition, or elections be processed as part of that proceeding.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature that the  
2 amendments made to Sections 3501, 3507, and 3509 of the  
3 Government Code by this act are intended to be technical and  
4 clarifying of existing law.

5 SEC. 2. Section 3501 of the Government Code is amended to  
6 read:

7 3501. As used in this chapter:

8 (a) “Employee organization” means either of the following:

9 (1) Any organization that includes employees of a public  
10 agency and that has as one of its primary purposes representing  
11 those employees in their relations with that public agency.

12 (2) Any organization that seeks to represent employees of a  
13 public agency in their relations with that public agency.

14 (b) “Recognized employee organization” means an employee  
15 organization which has been formally acknowledged by the public

1 agency as an employee organization that represents employees of  
2 the public agency.

3 (c) Except as otherwise provided in this subdivision, “public  
4 agency” means every governmental subdivision, every district,  
5 every public and quasi-public corporation, every public agency  
6 and public service corporation and every town, city, county, city  
7 and county and municipal corporation, whether incorporated or  
8 not and whether chartered or not. As used in this chapter, “public  
9 agency” does not mean a school district or a county board of  
10 education or a county superintendent of schools or a personnel  
11 commission in a school district having a merit system as provided  
12 in Chapter 5 (commencing with Section 45100) of Part 25 and  
13 Chapter 4 (commencing with Section 88000) of Part 51 of the  
14 Education Code or the State of California.

15 (d) “Public employee” means any person employed by any  
16 public agency, including employees of the fire departments and  
17 fire services of counties, cities, cities and counties, districts, and  
18 other political subdivisions of the state, excepting those persons  
19 elected by popular vote or appointed to office by the Governor of  
20 this state.

21 (e) “Mediation” means effort by an impartial third party to  
22 assist in reconciling a dispute regarding wages, hours and other  
23 terms and conditions of employment between representatives of  
24 the public agency and the recognized employee organization or  
25 recognized employee organizations through interpretation,  
26 suggestion and advice.

27 (f) “Board” means the Public Employment Relations Board  
28 established pursuant to Section 3541.

29 SEC. 3. Section 3507 of the Government Code is amended to  
30 read:

31 3507. (a) A public agency may adopt reasonable rules and  
32 regulations after consultation in good faith with representatives of  
33 a recognized employee organization or organizations for the  
34 administration of employer-employee relations under this chapter.

35 The rules and regulations may include provisions for all of the  
36 following:

37 (1) Verifying that an organization does in fact represent  
38 employees of the public agency.

39 (2) Verifying the official status of employee organization  
40 officers and representatives.

1 (3) Recognition of employee organizations.

2 (4) Exclusive recognition of employee organizations formally  
3 recognized pursuant to a vote of the employees of the agency or  
4 an appropriate unit thereof, subject to the right of an employee to  
5 represent himself or herself as provided in Section 3502.

6 (5) Additional procedures for the resolution of disputes  
7 involving wages, hours and other terms and conditions of  
8 employment.

9 (6) Access of employee organization officers and  
10 representatives to work locations.

11 (7) Use of official bulletin boards and other means of  
12 communication by employee organizations.

13 (8) Furnishing nonconfidential information pertaining to  
14 employment relations to employee organizations.

15 (9) Any other matters that are necessary to carry out the  
16 purposes of this chapter.

17 (b) Exclusive recognition of employee organizations formally  
18 recognized as majority representatives pursuant to a vote of the  
19 employees may be revoked by a majority vote of the employees  
20 only after a period of not less than 12 months following the date  
21 of recognition.

22 (c) No public agency shall unreasonably withhold recognition  
23 of employee organizations.

24 (d) Employees and employee organizations shall be able to  
25 challenge a rule or regulation of a public agency as a violation of  
26 this chapter. *This subdivision shall not be construed to restrict or*  
27 *expand the board's jurisdiction or authority as set forth in*  
28 *subdivisions (a) to (c), inclusive, of Section 3509.*

29 SEC. 4. Section 3509 of the Government Code is amended to  
30 read:

31 3509. (a) The powers and duties of the board described in  
32 Section 3541.3 shall also apply, as appropriate, to this chapter and  
33 shall include the authority as set forth in subdivisions (b) and (c).  
34 Included among the appropriate powers of the board are the power  
35 to order elections, to conduct any election the board orders, and to  
36 adopt rules to apply in areas where a public agency has no rule.

37 (b) A complaint alleging any violation of this chapter or of any  
38 rules and regulations adopted by a public agency pursuant to  
39 Section 3507 or 3507.5 shall be processed as an unfair practice  
40 ~~charge by the board or, if raised in the context of a board~~

1 ~~investigation into unit determination, representation, recognition,~~  
2 ~~or elections, as a part of that proceeding. The initial determination~~  
3 ~~charge by the board. The initial determination~~ as to whether the  
4 charge of unfair practice is justified and, if so, the appropriate  
5 remedy necessary to effectuate the purposes of this chapter, shall  
6 be a matter within the exclusive jurisdiction of the board. The  
7 board shall apply and interpret unfair labor practices consistent  
8 with existing judicial interpretations of this chapter.

9 (c) The board shall enforce and apply rules adopted by a public  
10 agency concerning unit determinations, representation,  
11 recognition, and elections ~~that are not in violation of this chapter.~~

12 (d) Notwithstanding subdivisions (a) to (c), inclusive, the  
13 employee relations commissions established by, and in effect for,  
14 the County of Los Angeles and the City of Los Angeles pursuant  
15 to Section 3507 shall have the power and responsibility to take  
16 actions on recognition, unit determinations, elections, and all  
17 unfair practices, and to issue determinations and orders as the  
18 employee relations commissions deem necessary, consistent with  
19 and pursuant to the policies of this chapter.

20 (e) This section shall not apply to employees designated as  
21 management employees under Section 3507.5.

22 (f) The board shall not find it an unfair practice for an employee  
23 organization to violate a rule or regulation adopted by a public  
24 agency if that rule or regulation is itself in violation of this chapter.  
25 This subdivision shall not be construed to restrict or expand the  
26 board's jurisdiction or authority as set forth in subdivisions (a) to  
27 (c), inclusive.